

A Nation of Diminishing Freedom
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With the advent of the new millennium, threats to the freedom and dignity of our people persist. The ghost of the Marcos past seems difficult to exorcise. With a Supreme Court that had upheld the right of state agents who are notorious for human rights violations to put up check points as well as to carry out a real target zonings supposedly to flush out criminal elements—the lingering threats to human rights of the Filipino are more than alive as ever. Further, the Philippine government is hell-bent in pushing for a national identification system purportedly to curb crime. This move, however, in conjunction with the two cited repressive state measures, is widely feared to be a precursor of a police state.

This is the same Supreme Court that had upheld the conviction of a poor man for violating the Anti-Squatting Law or Presidential Decree 772, which had been recently repealed by Congress, by virtue of a popular clamor, on account of its sheer unjustness. The same Supreme Court that had buried its head under the sand, like an ostrich, in the face of the clamor of the poor to declare as unconstitutional and to abrogate the automatic debt servicing law enacted by the deposed strongman Marcos. The result, the nation continues to bleed dry as almost 50 percent of its national budget is eaten up by debt servicing until now.

I thought all along that in the Philippines, our human rights struggle had already shifted, in terms of emphasis, from the civil and political arena to the social, economic and cultural fronts, with the advent of democracy in this part of the globe in 1986.

This, since the spectacle of the massive displacement of farmers due to land conversions and the violent demolition of thousands of shanties, of homeless, street families, of ubiquitous street children, and urchins—among other similar violations of our people's social, economic, and cultural rights—continues to haunt our nation, 14 years after the dictatorship crumbled at the might of a popular, mass-based resistance movement.

These, the homeless children, in particular, are everywhere—the solvent and substance abuser, the prostituted boy and girl, the beggar, who, forced by hunger to resort to petty crimes, metamorphoses into a prisoner, and, in the process, suffer further from violations of her/his civil and political rights, such as arbitrary detention and torture, in the hands of the police, from the moment of her/his arrest, up to her/his detention.

But are our courts of law vigilant, sensitive, and caring enough to protect and advance their fundamental rights in the civil, political, social, cultural, and economic spheres?

In possibly no other cases could the passivity and indifference of our courts to human rights be as glaring than in the way cases of children accused of violating the laws are being handled. Let me cite to you some examples of how our courts of justice treat our children-in-especially-difficult-circumstances, a byproduct of an iniquitous social order that essentially caters to the rich.

In Quezon City, for instance, where there presently exist at least 120 child prisoners at the Molave Youth Home alone, street children are being arrested and detained for petty offenses. A common offense for which our minors get arrested is the sporting of tattoo marks. To avoid conviction, the court in some instances allows the minor to blot out his or her own tattoo mark, simply by putting on another tattoo ink to be superimposed on the tattoo. The practice is downright barbaric, inhuman and cruel. It does not in any way uplift the dignity and well-being of the minor. On the contrary, this only generates stigma on her/his part, a fact that is largely overlooked by our courts. Yet, the child had been thrown and locked up in prison over a significant period of time, in most instances, together with adults charged with heinous offenses for this simple offense. This fact too is conveniently ignored.

But what does the state derive from imprisoning a child for sporting a tattoo mark in the first place? Yet, the state does nothing to eradicate the nefarious social conditions, like the lack of educational opportunities for these street kids, that breed tattoo-sporting child members of street gangs.

Child-insensitive courts

Young girls and boys invariably get hauled to jail, and in the process, suffer further dehumanization, for vagrancy, the crime of loitering around without any visible means of livelihood. These are the kids who usually run away from their own dysfunctional families, who roam the streets, and desperately seek ways and means to survive. Our courts allow kids to plead guilty and usually sentence them to 10-day imprisonment for the offense of vagrancy. In the process, the child, having acquired a dark criminal record, becomes irreparably destroyed for life. This is how a very vital artery of our democratic institutions handles our destitute kids! As if poverty were a crime in itself to be subjected to coercive, punitive measures by the state. As if the role of courts were simply to unquestioningly inflict punishment and not to rectify social injustice.

Yet, members of the elite, the financially well-off who visit and frequent houses of ill-repute (who are likewise considered, under the law, as vagrants), like the popular prostitution dens, fronting as cozy night clubs, in Quezon City and Pasay City—which are affordable only by the rich—as well as the high-stake gamblers in government-sanctioned casinos are never disturbed, but instead given special treatment and privileges since they ride in flashy cars and wear fashionable clothes; in contrast to the tattered clothes and gnawing hunger etched on the bony faces of child street urchins and hawkers.

The much-ballyhooed constitutional principles of due process of law and of equality before the law, therefore, as far as our children-in-especially-difficult-circumstances are concerned, are mere phantoms.

The sensitivity of our courts, or lack of it, to the rights and welfare of our children could be further gauged in terms of the absence of a special court procedure designed and intended especially for sexually abused and battered children, particularly young girls. Yes, we recently established special courts for the youth and children, by virtue of a law passed by the 10th Congress, just before the May 11, 1998 elections, but only after the bill had gathered dust,

and apparently because its members simply want to woo the votes of the population in order to get reelected into office.

Yet, we are still wanting in terms of the corresponding court procedures that would address and adapt to children's special qualities, needs, and characteristics. The result is that child victims of sexual assaults, for instance, become open, vulnerable, and helpless targets for the harassing and intimidating tactics of seasoned defense lawyers. In one Manila court, the photos of a prostituted girl who was then on the witness stand were brandished by the lawyers in full view of the jeering public showing her naked. Yet, not one of them, not even the male judge, had bothered to take notice of and mind the further trauma and stigma suffered by the street child who was in court precisely to vindicate her right against a foreign pedophile who had ravished and deprived her of her childhood, innocence, and sense of wonder.

Where then lies the role of human rights lawyer-activists amid this society whose respect for human rights is simply emblazoned on the cold walls of the apathy and indifference of its supposedly institutional defenders and guardian?

The situation of children accused of violating the law merely illustrates that always, the struggle for social, economic and cultural rights cannot be separated and divorced from our clamor to advance the civil and political rights of our citizens, especially the defenseless children.

The interactive and intertwining social forces confronting our disadvantaged children highlight and underscore the interrelationship and interconnectedness in the same breadth of the human rights struggle for civil and political as well as social, economic, and cultural rights and freedoms.

And this entails a thorough, massive, and grassroots education and politicization work among the broad sectors of society.

Rich legacy of militancy

Our predecessors and brethren in the human rights field have long shown us the way to freedom—the parliament of the streets, courts, jails, the press, the schools, churches, the halls of Congress, as well as the factories and the fields.

It is in this broad arena wherein human rights workers should focus their vision and energies of struggle. Lawyer-activists, in particular, should continue in fully exploring beyond its own self-debilitating lethargy the potency of the judicial arena in truly advancing and crystallizing the cause for human rights especially of the marginalized members of society. For lawyer-advocates play the unique role of officers of the court, a part and parcel of the judiciary, one of the three great departments of our Republic, which is coequal with Congress and Malacañang, and, therefore, could be held to answer for, as well as play a pivotal role in, the quest for social justice, human rights and freedom of the citizenry at large.

The likes of the grand old man of the parliament of the streets during the Marcos era—Lorenzo M. Tañada—whose centennial we have commemorated on August 10, 1998, of the illustrious Jose “Ka Pepe” Diokno, and Claro M. Recto, as well as the revolutionary heroes in our war against Spain, the United States, and Japan, and neocolonialist forces continue to provide us with the shining inspiration never to relent and to relax our guard and be complacent in the noble fight for human freedom, dignity and self-actualization during this critical moment of our Asian history.

The Visiting Forces Agreement, which was ratified by our Senate, is a threat foisted not only against Philippine sovereignty. It’s a threat that further pushes the Asian region and the whole world into the brink of a nuclear disaster, simply to advance the megalomaniac ambitions and caprices of the United States, in the name of regional security. What we need is to foster peace by further accelerating efforts for worldwide nuclear disarmament, not to further aggravate nuclear tensions. To foster people to people, as well as government to government, solidarity and brotherhood and cooperation, not to outdo each other in a foolish nuclear arms race which, in the final analysis, is self-destructive for the whole of mankind.

This is where a Planetary Peace Movement is very much in need of being launched at the initiative of, and nurtured by, men and women of good will from all parts of the globe, especially in Asia. A worldwide peace movement that necessarily has to be firmly anchored on the principles of and quest for the human rights of all people.

Our Asian leaders, especially the much-revered Mahatma Gandhi—just like Jesus Christ—have already shown us the active, non-violent, yet militant and potentially deadly, as well as moral and spiritual path for liberation and human dignity. In the very same way that Filipinos, led by our people-oriented Church of conscience, have demonstrated before the whole world how to oust a dictator, and effectively work for a just and humane society, by means of a peaceful, proactive, and popular revolution.

Our collective historical experiences give us Asians the precious insight that human rights struggle should relentlessly be carried out in all arenas, especially in the realm of politics. The development of a dynamic, spiritually inspired mass movement—intelligently conscious of, and actively working for and pursuing its quintessential and pristine, yet elusive, essence and meaning—would ensure a dynamic, vital, and crucial role for civil society in general for social transformation and liberation.

This, then, stands as the humble share and contribution of the Asian people to the ushering in and strengthening of a throbbing and pulsating Planetary Peace Movement spearheaded by spiritually-inspired men and women with a strong will to actually do good and serve humanity as their brilliant, shining force.

